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OFFICE OF PETITIONS

In re Application of :
Haataja et al. : DECISION ON PETITION
Application Number: 09/904280 :
Filing Date: 07/12/2001 :
Attorney Docket Number: :
2316.869USRE :

This is a decision on the petition under 37 CFR 1.47(a) filed on 20 September, 2007, which is being treated as a petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by all of the named inventors.¹

The petition is before the Office of Patent Legal Administration for decision.

The petition is **GRANTED**.

REVIEW OF FACTS

1. On 12 July, 2001, the application was filed as an application for reissue of U.S. Patent No. 5,923,753.
2. On 12 July, 2001, a reissue declaration naming Timothy Jon Haataja, Thomas Walter Kampf, Wayne Albin Johnson, and Gary F. Nault was filed.
3. On 8 February, 2006, a final Office action was mailed, setting a three (3) month shortened statutory period for reply.

¹ Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

4. On 12 June, 2006 (certificate of mailing date 8 June, 2006), a Request for Continued Examination (RCE) and an amendment as the required submission under 37 CFR 1.114, were filed. A petition for a one (1)-month extension of time under 37 CFR 1.136(a) was also filed.

5. On 20 September, 2007, the present petition was filed, stating that previously signing inventor Nault could not be located to sign the declaration.

DECISION ON PETITION UNDER 37 CFR 1.183
TO WAIVE §§ 1.67 AND 1.175

In view of the efforts recounted in the petition to locate and obtain the signature of Gary Nault on the supplemental declaration in compliance with 37 CFR 1.175, it is agreed that justice would be served by waiving the requirement for the signature of joint inventor Nault on the supplemental declaration filed on 20 September, 2007.

CONCLUSION

1. The petition is granted.
2. It is noted that petitioners submitted \$200.00 with the present petition. Effective 8 December, 2004, however, the fee for a petition under 37 CFR 1.183 is \$400.00. As such, the balance of \$200.00 will be charged to counsel's deposit account, No. 13-2725 as authorized in the transmittal letter filed with the present petition on 20 September, 2007.
3. The application is being referred to Technology Center Art Unit 2614 for further processing.
4. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.
5. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-3282.
3. Telephone inquiries related to this decision only should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

4. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (571) 272-9282.

A handwritten signature in cursive script, appearing to read "Kenneth M. Schor".

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy